

REMARKS

Claims 1, 2, 4-11, 13-21, and 23-26 were rejected by the Examiner in the above-identified final Office Action. In response, claims 1, 2, 5, 8-11, 13, 14, 17-21, and 24-26 have been amended and claim 15 has been cancelled. No new matter has been added. Accordingly, claims 1-2, 4-11, 13, 14, 16-21, and 23-26 remain pending.

Amendments

Support for the amendments to claims 1, 2, 5, 8-11, 13, 14, 17-21, and 24-26 may be found at least in Figures 1 and 2 and on page 7, line 30 through page 11, line 9.

Response to Arguments

On pages 2-3, the Examiner responds to arguments offered by Applicant in Applicant's November 30, 2007 response. In response, the Examiner provides two arguments. First, the Examiner cites MPEP 2114 for the proposition that a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus' if the prior art apparatus teaches all the structural limitations of the claim." The Examiner then states that the processor and machine readable medium described in Applicant's specification are anticipated by those of Fischer.

Applicant respectfully disagrees. First, even if the apparatuses claimed by Applicant merely recite a manner of use, the above reasoning applies only to the apparatus claims recited by Applicant, not to either the method or Beauregard claims. MPEP is does not address method or Beauregard claims, but simply focuses on apparatus claims and on the often encountered problem of functional claiming (where the apparatus limitation simply recite an effect, such as "whereby excellent result x is achieved").

Second, Applicant's apparatus claims do not merely recite a manner of use of a computing device, but rather recite specific instructions stored the machine readable medium which are configured to cause actions to occur resulting in a useful, concrete, and tangible result (a key is determined to be trusted). These apparatus claims do not

simply claim any apparatus which determines whether a key is to be trusted, but rather a device having specific instructions, that when operated perform specific steps to achieve that result. For further details, Applicant respectfully directs the Examiner's attention to MPEP 2106.

The Examiner also notes that Fischer teaches that a certifier may empower another person to cancel other certificates which the certifier has produced. Applicant does not understand the import of this statement, as the Examiner did not apply it to the claims or to Applicant's prior arguments. Presumably, the Examiner meant for this to suggest Applicant's recitation of a list of compromised keys. For the reasons provided below, Applicant disagrees with any such reading.

Lastly, the Examiner does not address the other arguments made by Applicant in the November 30, 2007 response, including those arguments paraphrased by the Examiner on page 2.

Claim Rejections – 35 U.S.C. §112

In "Claim Rejections – 35 U.S.C. §112", item 4 on page 3, the Examiner rejects claims 1, 2, 4-11, 17-21, and 24-26 under §112, first paragraph for failing to comply with the written description requirement. More specifically, the Examiner argues that Applicant's specification and drawings do not support the recitation of the second software module.

Applicant disagrees with the Examiner and notes that the client module 202 and SM module 106 teach first and second software modules. However, in the interest of furthering prosecution, Applicant has amended the claims to remove reference to the second software module. Accordingly, Applicant respectfully submits that the §112 rejections are obviated.

Claim Rejections – 35 U.S.C. §102

Claims 1-2, 4-11, 13-21, and 23-26 are rejected under 35 USC 102(b) over US Patent No. 5,214,702 to Fischer (Fischer). In response, Applicant has amended claims 1, 2, 5, 8-11, 13, 14, 17-21, and 24-26, overcoming the Examiner's rejection

In particular, claim 1 now recites a method comprising “reading from a software module binary a set of keys associated with a trusted source, wherein the set of keys is embedded in the software module binary, the set of keys having been compiled and linked with a software module to generate the software module binary” (emphasis added). Fischer does not teach or suggest at least these recitations of claim 1.

In the rejection, the Examiner cites disjointed portions of Fischer that individually do not teach the features of amended claim 1, and collectively fail to teach or suggest the invention as a whole as recited in amended claim 1.

First, claim 1 indicates that the reading of a set of keys is “from a software module binary” that the set of keys is “embedded in the software module binary”, and “the set of keys having been compiled and linked with a software module to generate the software module binary.” However, the Examiner cites to no portion of Fischer that teaches a software module binary, much less that provides for the set of keys to be read from software module binary in which the set of keys is embedded. Rather, Fischer provides for digital signatures embodied in nested certificates, the certificates being used to indicate the authority of various individuals in a digital transaction. These certificates are merely documents, not software modules binaries as provided in claim 1. Binaries are instructions that are compiled and linked, as claimed by claim 1. Digital certificates, however, are merely signed, not compiled and linked. Also, as described in Fischer, the certificates are tools to indicate authority levels for an individual/entity, and are not otherwise functioning software module binaries as recited in claim 1 and supported by the specification (for example with reference to a “security manager”). Further, Fischer indicates that what is actually embedded in the certificates is text associating a key with particular individuals having authority to use the certificates, not the key itself.

Further, even if the inclusion of text associating a key with individuals is taken to suggest embedding a set of keys in a software module, Fischer still does not teach or suggest that the digital certificate is a software module binary or that the digital certificate was generated by compiling and linking a key with a software module. Fischer is simply concerned with nesting of digital certificates to provide differing levels

of authority. Thus, compiling and linking a key with a software module to produce a binary which embeds the key is irrelevant to Fischer's purposes, and one of ordinary skill would not modify Fischer in such a way as to practice the recitations of amended claim 1.

Finally, in claim 1, there is a determination whether the key is identified in a list of compromised keys as a threshold to assigning the key a trusted status. Column 19, lines 36-45 of Fischer are cited for such a teaching, but provide no such teaching or suggestion. The cited portion of Fischer refers to cosignature requirements for establishing validity of a certificate, such that a certificate may be provided with a rule that requires more than one signature be present before the certificate will be deemed valid. However, at no point is there described a "compromised" list of keys (or signatures). As a consequence, there is also no teaching or suggestion of a compromised list of keys being used to determine whether a particular key should be assigned a trusted status.

For all the reasons above, amended claim 1 is patentable over Fischer. Thus, Applicant respectfully requests reconsideration and withdrawal of the rejection.

Amended, independent claims 8, 13, 17, 20, and 24 contain language that is similar to that of claim 1. Claims 8, 13, 17, 20, and 24 are thus patentable for at least the same reasons as claim 1.

Claims 2, 4-7, 9-11, 14, 16-19, 21, 23, and 25-26 are dependent on claims 1, 8, 13, 17, 20, or 24 and are thus patentable for at least the same reasons discussed above.

Conclusion

In light of the above amendments and remarks, claims 1, 2, 4-11, 13, 14, 16-21, and 23-26 are in condition for allowance. Early issuance of Notice of Allowance is respectfully requested. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (206) 407-1513.

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,
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